

E2SHB 1458 - S COMM AMD

By Committee on Water, Energy & Environment

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Hood Canal and other marine waters in Puget Sound are at risk
5 of severe loss of marine life from low-dissolved oxygen, and the
6 increased input of human-influenced nutrients, especially nitrogen, are
7 a significant factor causing this low-dissolved oxygen condition in
8 some of Puget Sound's waters, in addition to such natural factors as
9 poor overall water circulation and stratification that discourages
10 mixing of surface-to-deeper waters;

11 (2) A significant portion of the state's residents live in homes
12 served by on-site sewage disposal systems, and many new residences will
13 be served by these systems;

14 (3) Properly functioning on-site sewage disposal systems largely
15 protect water quality, and improperly functioning on-site sewage
16 disposal systems in marine recovery areas may contaminate surface
17 water, causing significant public health and environmental problems;

18 (4) Local programs designed to identify and correct failing on-site
19 sewage disposal systems have proven effective in reducing and
20 eliminating public health and environmental hazards, improving water
21 quality, and reopening previously closed shellfish areas; and

22 (5) State water quality monitoring data and analysis can help to
23 focus these enhanced local programs on specific geographic areas that
24 are sources of pollutants degrading Puget Sound waters.

25 Therefore, it is the purpose of this chapter to authorize enhanced
26 local programs in marine recovery areas to inventory existing on-site
27 sewage disposal systems, to identify the location of all on-site sewage
28 disposal systems in marine recovery areas, to require inspection of on-
29 site sewage disposal systems and repairs to failing systems, to develop
30 electronic data systems capable of sharing information regarding on-

1 site sewage disposal systems, and to monitor these programs to ensure
2 that they are working to protect public health and Puget Sound water
3 quality.

4 NEW SECTION. **Sec. 2.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Board" means the state board of health.

7 (2) "Department" means the department of health.

8 (3) "Failing system" means an on-site sewage disposal system or
9 component that threatens public health or the environment by
10 inadequately treating sewage, or that creates a potential for direct or
11 indirect contact between sewage and the public. Examples of failing
12 systems include those causing:

13 (a) Sewage on the surface of the ground;

14 (b) Sewage backing up into a structure;

15 (c) Sewage leaking from a sewage tank or collection system;

16 (d) Cesspools or seepage pits;

17 (e) Inadequately treated effluent that contaminates ground water or
18 surface water; or

19 (f) Noncompliance with a requirement stipulated on a permit issued
20 by the department or a local health jurisdiction.

21 (4) "Implementation plan" means a local health jurisdiction's on-
22 site sewage disposal system implementation plan required under section
23 4 of this act.

24 (5) "Local health officer" or "local health jurisdiction" means the
25 local health officers and local health jurisdictions in counties
26 bordering Puget Sound: Clallam, Island, Kitsap, Jefferson, Mason, San
27 Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and
28 Whatcom.

29 (6) "Marine recovery area" means an area of definite boundaries
30 where the local health officer, or the department in consultation with
31 the health officer, determines that additional requirements for on-site
32 sewage disposal systems may be necessary to reduce potential failing
33 systems or minimize negative impacts of on-site sewage disposal systems
34 on public health or the environment.

35 (7) "On-site sewage disposal system" means any system of piping,
36 treatment devices, or other facilities that convey, store, treat, or
37 dispose of sewage on the property where it originates or on nearby

1 property under the control of the user where the system is not
2 connected to a public sewer system. For purposes of this chapter, an
3 on-site sewage disposal system does not include indoor plumbing and
4 associated fixtures and does not include any system regulated by a
5 water quality discharge permit issued under chapter 90.48 RCW.

6 (8) "Unknown system" means an on-site sewage disposal system that
7 was installed without the knowledge or approval of the local health
8 jurisdiction, including those that were installed before such approval
9 was required.

10 NEW SECTION. **Sec. 3.** (1) By July 1, 2006, the local health
11 officer shall propose a marine recovery area for those land areas where
12 on-site sewage disposal systems are a significant factor contributing
13 to public health and environmental concerns, associated with:

14 (a) Shellfish growing areas that have been threatened or downgraded
15 by the department under chapter 69.30 RCW;

16 (b) Marine waters that are listed by the department of ecology
17 under Section 303(d) of the federal clean water act (33 U.S.C. Sec.
18 1251 et seq.) for low-dissolved oxygen or fecal coliform;

19 (c) Marine waters where nitrogen has been identified as a
20 contaminant of concern by the local health officer; or

21 (d) Marine waters with low-dissolved oxygen levels below three
22 parts per million.

23 (2) In determining the boundaries for a marine recovery area, the
24 local health officer shall assess and include those land areas where
25 on-site sewage disposal systems may affect water quality in the marine
26 recovery area.

27 (3) After July 1, 2006, the local health officer may designate
28 additional marine recovery areas meeting the criteria of this section,
29 according to new information. Where the department recommends the
30 designation of a marine recovery area or expansion of a designated
31 marine recovery area, the local health officer shall notify the
32 department of its decision concerning the recommendation within ninety
33 days of receipt of the recommendation.

34 NEW SECTION. **Sec. 4.** (1) By July 1, 2007, and thereafter, the
35 local health officer of a local health jurisdiction where a marine
36 recovery area has been proposed under section 3 of this act shall

1 develop and approve an on-site sewage disposal system program
2 implementation plan that includes designation of marine recovery areas
3 to guide the local health jurisdiction in developing and managing all
4 on-site sewage disposal systems within marine recovery areas within its
5 jurisdiction. The department may grant an extension of twelve months
6 where a local health jurisdiction has demonstrated substantial progress
7 toward completing its implementation plan.

8 (2) An implementation plan for a marine recovery area must specify
9 how the local health jurisdiction will:

10 (a) By July 1, 2010, and thereafter, find failing systems and
11 ensure that system owners of these systems make necessary repairs;

12 (b) By July 1, 2010, and thereafter, find unknown systems and
13 ensure that they are inspected as required to ensure that they are
14 functioning properly, and repaired, if necessary;

15 (c) Identify operation, maintenance, and monitoring requirements
16 commensurate with the risks posed by on-site sewage disposal systems in
17 the marine recovery area;

18 (d) Facilitate education of owners of on-site sewage disposal
19 systems regarding requirements for owners;

20 (e) Provide operation and maintenance information for owners of all
21 on-site sewage disposal system types in use within the marine recovery
22 area;

23 (f) Ensure that owners of on-site sewage disposal systems complete
24 operation and maintenance inspections as required by rules adopted by
25 the board;

26 (g) Maintain all records as required by rules adopted by the board,
27 including inspection and repair records;

28 (h) Enforce applicable on-site sewage disposal system permit
29 requirements; and

30 (i) If necessary, recommend alternatives to conventional on-site
31 sewage disposal systems such as extending sewer services, developing
32 community sewage systems, and encouraging on-site sewage disposal
33 system technologies with greater treatment performance, particularly
34 regarding reduction or removal of nitrogen.

35 (3) The local board of health shall provide at least a sixty-day
36 public comment period and hold a public hearing on a proposed
37 implementation plan. The local health officer shall submit the

1 proposed implementation plan to the department for review and comment.
2 The local board of health shall approve the implementation plan after
3 considering public comments on the plan.

4 (4) Within ten days of adoption by the local board of health, the
5 local health officer shall submit a copy of the implementation plan to
6 the department for review and approval as provided in section 6 of this
7 act.

8 NEW SECTION. **Sec. 5.** Each local health officer shall:

9 (1) Require that on-site sewage disposal system maintenance
10 specialists, septic tank pumpers, or others performing on-site sewage
11 disposal system inspections submit reports or inspection results to the
12 local health jurisdiction regarding any failing system; and

13 (2) Develop and maintain an electronic data system of all on-site
14 sewage disposal systems within a marine recovery area to enable the
15 local health jurisdiction to actively manage on-site sewage disposal
16 systems. In assisting development of such electronic data systems, the
17 department shall work with local health jurisdictions with marine
18 recovery areas and the on-site sewage disposal system industry to
19 develop common forms and protocols to facilitate sharing of data. A
20 marine recovery area on-site sewage disposal electronic data system
21 must be compatible with all on-site sewage disposal electronic data
22 systems used throughout a local health jurisdiction.

23 NEW SECTION. **Sec. 6.** (1) The department shall review an
24 implementation plan submitted by a local health officer to ensure that
25 all required elements, including designation of any marine recovery
26 area, have been addressed. The board may adopt additional criteria by
27 rule for approving implementation plans.

28 (2) Within thirty days of receiving an implementation plan, the
29 department shall either approve the plan or provide in writing the
30 reasons for not approving an implementation plan and recommend changes.
31 If the department does not approve the plan, the local board of health
32 must amend and resubmit the plan to the department for approval.

33 (3) Upon receipt of department approval or after thirty days
34 without notification, whichever comes first, the local health officer
35 shall implement the implementation plan.

1 (4) If the department denies approval of an implementation plan,
2 the local board of health may appeal the denial to the state board of
3 health, which will have final resolution of the matter.

4 (5) The department shall assist local health jurisdictions in:

5 (a) Developing implementation plans required by section 4 of this
6 act;

7 (b) Identifying reasonable methods for finding unknown systems; and

8 (c) Developing or enhancing electronic data systems that will
9 enable each local health jurisdiction to actively manage all on-site
10 sewage disposal systems within their jurisdictions, with priority given
11 to those on-site sewage disposal systems that are located in or which
12 could affect designated marine recovery areas.

13 NEW SECTION. **Sec. 7.** (1) The department shall enter into a
14 contract with each local health jurisdiction subject to the
15 requirements of this chapter to implement approved implementation plans
16 developed under this chapter, and to develop or enhance electronic data
17 systems required by this chapter. The contract shall include state
18 funding assistance to the local health jurisdiction from funds
19 appropriated to the department for this purpose.

20 (2) The contract shall require, at a minimum, that within a marine
21 recovery area, the local health jurisdiction:

22 (a) Show progressive improvement in finding failing systems;

23 (b) Show progressive improvement in working with on-site sewage
24 disposal system owners to make needed system repairs;

25 (c) Is actively taking steps to find previously unknown systems and
26 ensuring that they are inspected as required and repaired if necessary;

27 (d) Show progressive improvement in the percentage of on-site
28 sewage disposal systems that are included in an electronic data system;
29 and

30 (e) Of those on-site sewage disposal systems in the electronic data
31 system, show progressive improvement in the percentage that have had
32 required inspections.

33 (3) The contract must also include provisions for state assistance
34 in updating the implementation plan. Beginning July 1, 2009, the
35 contract may adopt revised compliance dates, including those in section
36 4 of this act, where the local health jurisdiction has demonstrated
37 substantial progress in updating the implementation plan.

1 NEW SECTION. **Sec. 8.** The provisions of this chapter are
2 supplemental to all other authorities governing on-site sewage disposal
3 systems, including chapter 70.118 RCW and rules adopted under that
4 chapter.

5 NEW SECTION. **Sec. 9.** (1) The department of health shall report to
6 the appropriate committees of the senate and house of representatives
7 by December 31, 2007, on progress in designating marine recovery areas
8 and developing and implementing implementation plans for such marine
9 recovery areas.

10 (2) The report shall include information on:

11 (a) The status of implementation plans in each county covered by
12 sections 1 through 8 of this act;

13 (b) The status of on-site sewage disposal system location,
14 identification, and inclusion within electronic data systems in each
15 county, including estimates of remaining on-site sewage disposal
16 systems within marine recovery areas that have not been identified or
17 included within electronic data systems;

18 (c) The shoreline areas for which sanitary surveys have been
19 completed by the department;

20 (d) The progress of and capacity of local health jurisdictions to
21 identify on-site sewage disposal systems within marine recovery areas
22 and to ensure that failing systems are repaired and all systems are
23 operated and maintained in compliance with board of health standards;

24 (e) Regulatory, statutory, and financial barriers to implementing
25 the implementation plan;

26 (f) Recommendations that will assist local health jurisdictions to
27 successfully implement implementation plans; and

28 (g) Recommendations for the professional certification of on-site
29 sewage disposal system operation and maintenance personnel, developed
30 in consultation with local health jurisdictions, the on-site sewage
31 disposal system industry, and other affected stakeholders.

32 (3) Local health jurisdictions shall provide information and data
33 requested by the department of health in developing the reports, and
34 the department shall append all reports or information that the local
35 health jurisdictions request to be included in the report.

1 **Sec. 10.** RCW 43.20.050 and 1993 c 492 s 489 are each amended to
2 read as follows:

3 (1) The state board of health shall provide a forum for the
4 development of public health policy in Washington state. It is
5 authorized to recommend to the secretary means for obtaining
6 appropriate citizen and professional involvement in all public health
7 policy formulation and other matters related to the powers and duties
8 of the department. It is further empowered to hold hearings and
9 explore ways to improve the health status of the citizenry.

10 (a) At least every five years, the state board shall convene
11 regional forums to gather citizen input on public health issues.

12 (b) Every two years, in coordination with the development of the
13 state biennial budget, the state board shall prepare the state public
14 health report that outlines the health priorities of the ensuing
15 biennium. The report shall:

16 (i) Consider the citizen input gathered at the forums;

17 (ii) Be developed with the assistance of local health departments;

18 (iii) Be based on the best available information collected and
19 reviewed according to RCW 43.70.050 (~~and recommendations from the~~
20 ~~council~~);

21 (iv) Be developed with the input of state health care agencies. At
22 least the following directors of state agencies shall provide timely
23 recommendations to the state board on suggested health priorities for
24 the ensuing biennium: The secretary of social and health services, the
25 health care authority administrator, the insurance commissioner, the
26 superintendent of public instruction, the director of labor and
27 industries, the director of ecology, and the director of agriculture;

28 (v) Be used by state health care agency administrators in preparing
29 proposed agency budgets and executive request legislation;

30 (vi) Be submitted by the state board to the governor by January 1st
31 of each even-numbered year for adoption by the governor. The governor,
32 no later than March 1st of that year, shall approve, modify, or
33 disapprove the state public health report.

34 (c) In fulfilling its responsibilities under this subsection, the
35 state board may create ad hoc committees or other such committees of
36 limited duration as necessary.

37 (2) In order to protect public health, the state board (~~of~~
38 ~~health~~) shall:

1 (a) Adopt rules necessary to assure safe and reliable public
2 drinking water and to protect the public health. Such rules shall
3 establish requirements regarding:

4 (i) The design and construction of public water system facilities,
5 including proper sizing of pipes and storage for the number and type of
6 customers;

7 (ii) Drinking water quality standards, monitoring requirements, and
8 laboratory certification requirements;

9 (iii) Public water system management and reporting requirements;

10 (iv) Public water system planning and emergency response
11 requirements;

12 (v) Public water system operation and maintenance requirements;

13 (vi) Water quality, reliability, and management of existing but
14 inadequate public water systems; and

15 (vii) Quality standards for the source or supply, or both source
16 and supply, of water for bottled water plants.

17 (b) Adopt rules and standards for prevention, control, and
18 abatement of health hazards and nuisances related to the disposal of
19 wastes, solid and liquid, including but not limited to sewage, garbage,
20 refuse, and other environmental contaminants; adopt standards and
21 procedures governing the design, construction, and operation of sewage,
22 garbage, refuse and other solid waste collection, treatment, and
23 disposal facilities;

24 (c) Adopt rules controlling public health related to environmental
25 conditions including but not limited to heating, lighting, ventilation,
26 sanitary facilities, cleanliness and space in all types of public
27 facilities including but not limited to food service establishments,
28 schools, institutions, recreational facilities and transient
29 accommodations and in places of work;

30 (d) Adopt rules for the imposition and use of isolation and
31 quarantine;

32 (e) Adopt rules for the prevention and control of infectious and
33 noninfectious diseases, including food and vector borne illness, and
34 rules governing the receipt and conveyance of remains of deceased
35 persons, and such other sanitary matters as admit of and may best be
36 controlled by universal rule; and

37 (f) Adopt rules for accessing existing data bases for the purposes
38 of performing health related research.

1 (3) The state board may delegate any of its rule-adopting authority
2 to the secretary and rescind such delegated authority.

3 (4) All local boards of health, health authorities and officials,
4 officers of state institutions, police officers, sheriffs, constables,
5 and all other officers and employees of the state, or any county, city,
6 or township thereof, shall enforce all rules adopted by the state board
7 (~~of health~~). In the event of failure or refusal on the part of any
8 member of such boards or any other official or person mentioned in this
9 section to so act, he or she shall be subject to a fine of not less
10 than fifty dollars, upon first conviction, and not less than one
11 hundred dollars upon second conviction.

12 (5) The state board may advise the secretary on health policy
13 issues pertaining to the department of health and the state.

14 (6) In addition to the powers and duties to adopt rules for on-site
15 sewage disposal systems as provided in subsection (2) of this section,
16 the state board shall adopt rules to address environmental impacts
17 associated with low-dissolved oxygen in marine waters caused wholly or
18 in part by on-site sewage disposal systems, as defined in section 2 of
19 this act.

20 NEW SECTION. Sec. 11. A new section is added to chapter 90.48 RCW
21 to read as follows:

22 (1) The department of ecology shall administer a financial
23 assistance program for the repair and replacement of failing on-site
24 sewage disposal systems in counties with marine waters.

25 (2) The department shall design an application process for the
26 financial assistance program in coordination with the Puget Sound
27 action team and the department of health. The department may contract
28 with private financial institutions to administer banking functions
29 involved in the financial assistance program. The application process
30 must ensure that:

31 (a) Applications are readily accessible at the local level through
32 local health districts and departments, and that the application
33 process is easy to understand and complete by homeowners with technical
34 assistance provided by local health districts and departments.

35 (b) Applications are prioritized based on the level of reductions
36 in environmental and public health problems that will be achieved by

1 proposed repair or replacement of a failing on-site sewage disposal
2 system.

3 (c) Applicants will provide proper inspection and maintenance of
4 the on-site sewage disposal systems repaired or installed to standards
5 required by the local health jurisdiction and applicable rules adopted
6 by the state board of health.

7 (3) In consultation with the department of health, the department
8 shall design the financial assistance program to provide a combination
9 of grants and low-interest and/or deferred-payment loans. The program
10 shall provide grants based on financial need of the applicant.
11 Homeowners with annual incomes, as defined in RCW 84.36.383, below
12 twenty-five thousand dollars or less shall be eligible for one hundred
13 percent grant financing. The department shall adopt a declining
14 portion of grant funding for homeowners with incomes between twenty-
15 five thousand dollars and one hundred fifty percent of the state median
16 family income. Homeowners with incomes above one hundred fifty percent
17 of the state median family income shall only be eligible for low-
18 interest loans. The portion of financial assistance provided through
19 grants shall be larger in the first five years of the program to
20 encourage homeowners with failing on-site sewage disposal systems to
21 repair and replace those systems as early as possible.

22 (4) The department shall offer either grants or loans, or both, to
23 local health districts and departments proposing pilot programs to
24 encourage and fund, within marine recovery areas designated pursuant to
25 chapter 70.-- RCW (sections 1 through 9 of this act), installation and
26 proper operation and maintenance of alternative systems that provide
27 greater treatment performance in reducing nitrogen discharges to these
28 areas and waterless toilets. The department shall compile and annually
29 provide information to the department of health and local health
30 districts and departments regarding performance of alternative systems
31 and waterless toilets funded pursuant to this subsection.

32 (5) From July 1, 2005, to June 30, 2007, the department shall place
33 a high priority on providing the financial assistance authorized in
34 this section within watersheds that drain to Hood Canal south of a line
35 projected from Tala Point in Jefferson county to Foulweather Bluff in
36 Kitsap county.

37 (6) For purposes of this section:

1 (a) "Failing" and "on-site sewage disposal system" have the meaning
2 specified in section 2 of this act.

3 (b) "Alternative system" means an on-site sewage disposal system
4 other than a conventional gravity system or conventional pressure
5 distribution system.

6 (c) "Waterless toilet" means a nondischarging toilet that uses no
7 water for waste transport but stores or reduces toilet and urinal
8 wastes to either compost, ash, or an accumulation of wastes for
9 removal, transport, and final disposal at an approved site.

10 NEW SECTION. **Sec. 12.** By December 31, 2005, the department of
11 health must provide a report and recommendations to the appropriate
12 committees of the legislature regarding existing financial assistance
13 programs providing low-interest grants and loans to homeowners to
14 repair and replace failing on-site sewage disposal systems in counties
15 with marine waters. In preparing the report and recommendations, the
16 department of health will consult the Puget Sound action team, the
17 department of community, trade, and economic development, and the
18 department of ecology. Recommendations must include, if needed,
19 proposals to revise existing programs to ensure that homeowners in all
20 counties with marine waters have sufficient access to financial
21 assistance.

22 NEW SECTION. **Sec. 13.** Sections 1 through 9 of this act constitute
23 a new chapter in Title 70 RCW.

24 NEW SECTION. **Sec. 14.** If specific funding for the purposes of
25 sections 1 through 10 of this act, referencing this act by bill or
26 chapter number, is not provided by June 30, 2005, in the omnibus
27 appropriations act, sections 1 through 10 of this act are null and
28 void.

29 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
30 preservation of the public peace, health, or safety, or support of the
31 state government and its existing public institutions, and takes effect
32 July 1, 2005."

E2SHB 1458 - S COMM AMD

By Committee on Water, Energy & Environment

1 On page 1, line 2 of the title, after "areas;" strike the remainder
2 of the title and insert "amending RCW 43.20.050; adding a new section
3 to chapter 90.48 RCW; adding a new chapter to Title 70 RCW; creating
4 new sections; providing an effective date; and declaring an emergency."

--- END ---